

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

**ERIC MEURY and VIKTORIA
NYARI,**

Plaintiffs,

v.

Civil Action No. 3:16cv872

**OLVERSON'S LODGE CREEK MARINA,
INC. and FREDERICK OLVERSON,**

Defendants.

MEMORANDUM ORDER

Plaintiffs Eric Meury and Viktoria Nyari (the "Plaintiffs") bring this negligence action against Defendants Olverson's Lodge Creek Marina, Inc. (the "Marina") and its owner, Frederick Olverson (collectively, the "Defendants") alleging that the Defendants breached common law duties they owed to the Plaintiffs when the Plaintiffs rented a boat slip from the Marina in October 2014.

The Court referred this matter to the Honorable David J. Novak, United States Magistrate Judge, pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Rule 72(b) of the Federal Rules of Civil Procedure. Judge Novak filed a Report and Recommendation ("R&R") on December 19, 2016 (ECF No. 19), recommending that both Defendants' Motions to Dismiss, (ECF Nos. 4, 9), be denied, (R&R 1, ECF No. 19). By copy of the Report and Recommendation, each party was advised of the right to file written objections to the findings and recommendations made by Judge Novak. 28 U.S.C. § 636(b)(1). On January 17, 2017,

Olverson filed Objections to the R&R, (ECF No. 20), and a “Memorandum in Support,” (ECF No. 21). On January 23, 2017, the Marina filed Objections to the R&R. (ECF No. 22.)

Olverson’s objections “adopt[ed] and incorporate[d] his Rule 12(b)(6) Motion to Dismiss . . . , his Brief in Support of his Rule 12(b)(6) Motion to Dismiss . . . , and his Rebuttal to Plaintiffs’ Opposition to Defendants’ Rule 12(b)(6) Motion to Dismiss.” (Def. Olverson’s Objs. R&R ¶ 1, ECF No. 20.) The Marina’s objections merely “adopt[] the objections filed by co-Defendant [Olverson] . . . , and incorporate[] by reference . . . Olverson’s Objections as well as Olverson’s Brief in Support of his Objections.” (Def. Marina’s Objs. R&R ¶ 1, ECF No. 22.) These statements are not cognizable objections addressable by the Court and are improper. *See United States v. George*, 971 F.2d 1113, 1117 (4th Cir. 1992) (explaining that upon submission of a Magistrate Judge’s Report and Recommendation, “the court . . . ‘shall make a de novo determination of *those portions* of the report or *specified* proposed findings or recommendations *to which objection is made*” (emphases added) (quoting 28 U.S.C. § 636(b)(1))). Further, all of Olverson’s individually-stated objections simply restate arguments made in Olverson’s Memorandum in Support of his Motion to Dismiss. (*Compare* Def. Olverson’s Objs. R&R ¶¶ 2–7, *with* Def. Olverson’s Mem. Supp. Mot. Dismiss 5–10, ECF No. 5.) To the extent the Court were to consider the improperly presented objections, they would be overruled for the reasons stated in the R&R.

Despite the improper manner in which Olverson and the Marina each presented their objections, the Court nonetheless conducted a *de novo* review of the R&R and both Defendants’ objections. Finding no error, the Court:


- 1) ADOPTS the findings and recommendations set forth in the R&R, (ECF No. 19);
- 2) OVERRULES Olverson’s objections, (ECF No. 20);

- 3) OVERRULES the Marina's objections, (ECF No. 22);
- 4) DENIES Olverson's Motion to Dismiss, (ECF No. 4); and,
- 5) DENIES the Marina's Motion to Dismiss, (ECF No. 9).

Let the Clerk send a copy of this Order to all counsel of record.

It is so ORDERED.

Date: 4/14/2017
Richmond, Virginia



M. Hannah Lauck
United States District Judge